

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of Rosemary Simone Wilkinson,
Jewell Annette Loraine Wilkinson, Jessica Christine
Sowell, Paula Josephine Sowell, and Lauren
Elizabeth Sowell, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

V

ANNETTE LORAIN SOWELL,

Respondent-Appellant,

and

CLYDE ORLANDO MILLS, DEMETRIUS
ANTHONY SHEPHERD, and KEITH
WASHINGTON SOWELL,

Respondents.

UNPUBLISHED

June 24, 2003

No. 241780

Wayne County Circuit Court

Family Division

LC No. 88-271387

Before: Gage, P.J., and Wilder and Fort Hood, JJ.

PER CURIAM.

Respondent-appellant appeals as of right from the trial court order terminating her parental rights to the minor children under MCL 712A.19b(3)(b)(ii), (c)(i), (g), and (j). We affirm.

This case came to the attention of the Family Independence Agency (FIA) in June 1998 after physical abuse committed by Keith Sowell against Rosemary Simone Sowell was reported. The trial court assumed jurisdiction, and the children were removed from the home, in August 1998 after testimony revealed numerous instances of physical abuse inflicted upon the minor children, and previous substantiated referrals to FIA for physical and sexual abuse. The testimony of an FIA worker and Respondent also established that Respondent rationalized the physical abuse of the children as appropriate discipline. Respondent was permitted supervised visitation with the minor children.

Testimony presented during hearings through August of 1999 showed minimal progress by Respondent and continued abuse of the children by Keith Sowell. The FIA filed a permanent custody petition on September 30, 1999, after receiving new allegations of sexual abuse of the children by Keith Sowell. Supervised visitation was suspended and hearings commenced on the petition in December 1999. At the conclusion of the hearing on the permanent custody petition, the trial court found that the allegations of sexual abuse were not substantiated by a preponderance of the evidence and dismissed the petition. Respondent's supervised visitation with the children was resumed; however, respondent was not permitted contact with Keith Sowell as part of her treatment plan.

In February of 2001, the trial court directed the filing of a second permanent custody petition because respondent's progress continued to be insufficient and Keith Sowell was alleged to have continued unauthorized contact with the minor children. After the completion of hearing on this petition on September 10, 2001, the trial court found there was clear and convincing evidence to warrant the termination of respondent's parental rights.

In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re Sours Minors*, 459 Mich 624; 593 NW2d 520 (1999); *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1993). Once the petitioner has established a statutory ground for termination by clear and convincing evidence, the trial court shall order termination of parental rights, unless the court finds from evidence on the whole record that termination is clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353; 612 NW2d 407 (2000).

The trial court's decision is reviewed for clear error. *Id.* at 356-357. A finding of fact is clearly erroneous if the reviewing court is left with a definite and firm conviction that a mistake was made. *In re Terry*, 240 Mich App 14, 22; 610 NW2d 563 (2000). To be clearly erroneous, a decision must be more than maybe or probably wrong. *In re Sours Minors*, *supra* at 633. In applying the clearly erroneous standard, this Court should recognize the special opportunity the trial court has to assess the credibility of the witnesses. MCR 2.613(C); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

Respondent does not challenge the trial court's findings under § 19b(3)(b)(ii). Because only one ground is required for terminating parental rights, we may affirm on the basis of this unchallenged ground alone. *In re JS & SM*, 231 Mich App 92, 98-99; 585 NW2d 326 (1998). In any event, we affirm the trial court on all four statutory grounds, finding no clear error on this record. The trial court was presented with sufficient evidence, which, if believed, clearly established that respondent was either unable or unwilling to protect her children from further abuse at the hands of Keith Sowell. Furthermore, even if the trial court erred by excluding the testimony of a counselor who met with Keith Sowell as to Keith Sowell's violent behaviors, in order to show how this may have affected respondent's compliance with the treatment plan, any such error was harmless because the excluded testimony was cumulative to information that was otherwise available to the trial court in the record. *Lamson v Martin*, 216 Mich App 452, 459; 549 NW2d 878 (1996).

We further conclude that the evidence did not establish that termination of respondent's parental rights was clearly not in the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

Affirmed.

/s/ Hilda R. Gage
/s/ Kurtis T. Wilder
/s/ Karen Fort Hood